

**IN THE HIGH COURT OF JUDICATURE, ANDHRA
PRADESH
AT HYDERABAD**

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.18542 of 1996

Dated: November 21, 2006

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Between:

D. Munuswamy, S/o. Punnai, aged about 70 years,
Cooli, R/o. Arava Harijanapalem, Rapur Road,
Gudur Town, Nellore District.

... Petitioner

And

The District Collector, Nellore District, Nellore,
And others.

... Respondents

Order:

In this Writ Petition, petitioner questions notice dated 06-08-1996 issued by the third respondent, the Mandal Revenue Officer, Gudur, Nellore District, in Proceedings RCA 1519/95.

2. The case of the petitioner, claiming to be landless poor person and belonging to Scheduled Caste community, is that he has been in possession and enjoyment of house site admeasuring 3 *Ankanams*, which is equivalent to 24 Square yards in West Gudur, Nellore

District. It is stated that the third respondent, the Mandal Revenue Officer, Gudur, considering the longstanding possession of the petitioner over the said site, granted assignment of the same in his favour and accordingly petitioner constructed a thatched house in that site. The fourth respondent is said to have been assigned an extent of Ac.0.84 cents of agricultural land in Survey No.1798/92 and 1798/3 of West Gudur Mandal. It is stated that she made a representation to the Revenue Division Officer stating that the petitioner has occupied 3 *Ankanams* of land on the east of her land and constructed a hut therein, as a result of which, there is no way for her to enter into her land. Pursuant thereto, the Revenue Divisional Officer is said to have directed the Mandal Revenue Officer to remove the hut erected by the petitioner, so as to provide way to the fourth respondent to enter into her land, who in turn, issued the impugned notice as to why the said orders should not be implemented.

3. The grievance of the petitioner is that though he filed a detailed representation opposing the proposing action of the respondents, no enquiry has been conducted and no notice, as required under A.P. Land Encroachment Act, 1905 ('the Act' for brevity) has been issued to him.

4. It is a settled proposition of law that even for removal of encroachment, the encroachers are entitled to notice and without following due process of law, as contemplated under the provisions of the Act they cannot be evicted.

5. In that view of the matter, the Writ Petition is allowed and the impugned notice is hereby set aside. However, this will not preclude the Mandal Revenue Officer concerned to initiate appropriate action under the provisions of the Act if he is of the opinion that the petitioner

has encroached into the said land. No order as to costs.

JUSTICE R. SUBHASH REDDY.

November 21, 2006
MRR